

(iv) Any other suitable circumstances in which, with the concurrence of the Chief Administrative Law Judge, the Settlement Judge determines that a personal meeting is necessary for a resolution of substantial issues in a case and the holding of a conference represents a prudent use of resources.

(2) *Participation in conference.* The Settlement Judge may recommend that the attorney or other representative who is expected to try the case for each party be present, and, without regard to the scope of the attorney's or other representative's powers, may also recommend that the parties, or agents having full settlement authority, be present. The parties, their representatives, and attorneys are required to be completely candid with the Settlement Judge so that he may properly guide settlement discussions. The failure to be present at a settlement conference or the refusal to cooperate fully within the spirit of this rule may result in the termination of the settlement proceeding under this section. The Settlement Judge may make such other and additional requirements of the parties and persons having an interest in the outcome as to him shall seem proper in order to expedite an amicable resolution of the case. No evidence of statements or conduct in proceedings under this section will be admissible in any subsequent hearing, except by stipulation of the parties. Documents disclosed in the settlement process may not be used in litigation unless obtained through appropriate discovery or subpoena.

(d) *Report of Settlement Judge.* (1) With the consent of the parties, the Settlement Judge may request from the Chief Administrative Law Judge an enlargement of the time of the settlement period not exceeding 20 days. This request, and any action of the Chief Administrative Law Judge in response thereto, may be written or oral.

(2) Under other circumstances the Settlement Judge, following the expiration of the settlement period or at such earlier date that he determines further negotiations would be fruitless, shall promptly notify the Chief Administrative Law Judge in writing of the status of the case. If he has not approved a full settlement pursuant to

§ 2200.100 of these rules, such report shall include written stipulations embodying the terms of such partial settlement as has been achieved during the assignment.

(3) At the termination of the settlement period without a full settlement, the Chief Administrative Law Judge shall promptly assign the case to a different Administrative Law Judge for appropriate action on the remaining issues, unless the parties request otherwise. The Settlement Judge shall not discuss the merits of the case with any Administrative Law Judge or other person, nor be called as a witness in any hearing of the case.

(e) *Non-reviewability.* Any decision concerning the assignment of a particular Settlement Judge or the decision by any party or Settlement Judge to terminate proceedings under this section is not subject to review by, appeal to, or rehearing by any subsequent presiding officer, the Chief Administrative Law Judge, or the Commission.

[51 FR 32015, Sept. 8, 1986; 52 FR 13832, Apr. 27, 1987; 62 FR 35963, July 3, 1997]

§ 2200.102 Withdrawal.

A party may withdraw its notice of contest, citation, notification of proposed penalty, or petition for modification of abatement period at any stage of a proceeding. The notice of withdrawal shall be served in accordance with § 2200.7(c) upon all parties and authorized employee representatives that are eligible to elect, but have not elected, party status. It shall also be posted in the manner prescribed in § 2200.7(g) for the benefit of any affected employees not represented by an authorized employee representative who are eligible to elect, but have not elected, party status. Proof of service shall accompany the notice of withdrawal.

[51 FR 32015, Sept. 8, 1986; 52 FR 13832, Apr. 27, 1987]

§ 2200.103 Expedited proceeding.

(a) *When ordered.* Upon application of any party or intervenor or upon its own motion, the Commission may order an expedited proceeding. When an expedited proceeding is ordered by the Commission, the Executive Secretary shall notify all parties and intervenors.